

Federal Issues

Regulatory

CMS Issues Letters to States on Medicaid Redeterminations

The Centers for Medicare & Medicaid Services (CMS) released a set of State Health Official (SHO) letters sent to all fifty states and the District of Columbia regarding their preliminary Medicaid and Children's Health Insurance Program (CHIP) renewal data.

Why this matters: The letters focus on three metrics—call center operations, disenrollments at renewal due to procedural or administrative reasons, and MAGI application processing times—and indicates whether the state's performance on these metrics raises concerns for CMS. For those states where CMS has expressed concern, CMS requests the state immediately take action to address the issues identified in the letter. If a state does not quickly address the issues identified, CMS notes it may pursue compliance action, including withholding a state's federal funding or issuing a corrective action plan. [Read More](#)

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Departments Release New FAQs on *No Surprises Act* IDR Administrative Fee

The Departments of Health and Human Services, Labor, and Treasury released new No Surprises Act (NSA) Independent Dispute Resolution (IDR) Administrative Fee [Frequently Asked Questions](#) (FAQs).

Why this matters: The FAQs clarify the administrative fee amount each disputing party must pay to engage in the Federal IDR process as a result of the Texas Medical Association (TMA) IV court decision. **The FAQs are not announcing the reopening of the Federal IDR portal to initiate new disputes. The Departments intend to reopen the portal to permit the initiation of new disputes soon and will notify parties at such time.**

Background: Judge Jeremy Kernodle of the U.S. District Court for the Eastern District of Texas recently issued [the court's decision](#) in the Texas Medical Association case that challenged the No Surprises Act, a federal law that prevents providers from billing privately insured patients more than the typical in-network, out-of-pocket costs for most emergency services - excluding ground ambulance transportation – and for some out-of-network providers at in-network facilities.

- In the ruling, Kernodle vacated new parts of the No Surprises Act, after finding that the administrative fee increase from \$50 to \$350, combined with the strict batching rules, violates the Administrative Procedures Act.
- In response to the ruling, the Centers for Medicare & Medicaid Services has [temporarily suspended](#) the IDR process, including the ability to initiate new disputes.

State Issues

Pennsylvania

Regulatory

Shapiro Administration Announces Public Comment Period On Proposed 2024 Health Insurance Rate Increases

Pennsylvania Insurance Commissioner Michael Humphreys welcomed public comment on the requested rate changes insurance companies currently operating in Pennsylvania's individual and small group market filed for 2024. The comment period on the proposed rate increases will close on September 8.

Insurance companies offering individual and small group health insurance plans are required to file proposed rates with the Pennsylvania Insurance Department for review and approval before plans can be sold to consumers. The Department reviews rates to ensure that the plans are priced appropriately and are not unfairly discriminatory.

For 2024, insurers currently selling in the individual market filed plans requesting an average statewide increase of 4.2 percent. These filings include:

- **Capital Advantage Assurance Company** (Rating areas 6,7,9, Average rate request 7.9%)

- **Cigna Health and Life Insurance Company** (Rating area 8, Average rate request 13.1%)
- **Geisinger Health Plan** (Rating areas 2,3,5,6,7,9, Average rate request 7.3%)
- **Geisinger Quality Options** (Rating areas 2,3,5,6,7,9, Average rate request 7.1%)
- **Highmark Benefits Group Inc.** (Rating areas 3,8, Average rate request 13.2%)
- **Highmark Coverage Advantage Inc.** (Rating areas 1,4, Average rate request 9.9%)
- **Highmark Inc.** (Rating areas 1,2,4,5,6,7,9, Average rate request 11.2%)
- **Independence Blue Cross (QCC Ins. Co.)** (Rating area 8, Average rate request -2.7%)
- **Keystone Health Plan Central** (Rating areas 6,7,9, Average rate request -0.3%)
- **Keystone Health Plan East, Inc.** (Rating area 8, Average rate request -3.5%)
- **Oscar Health Plan of Pennsylvania, Inc.**(Rating areas 3,6,7,8, Average rate request 6.8%)
- **Pennsylvania Health & Wellness, Inc.** (Rating areas 3,6,7,8, Average rate request 2.3%)
- **UPMC Health Coverage, Inc.** (Rating areas 1,5, Average rate request 7.6%)
- **UPMC Health Options, Inc.** (Rating areas 1,2,3,4,5,6,7,9, Average rate request 6.2%)

Insurers that currently sell in Pennsylvania's small group market filed plans requesting average statewide increases of 4.1 percent.

In the proposed individual and small group market filings, Highmark plans to expand into five new counties: Bucks, Chester, Delaware, Montgomery, and Philadelphia counties, while Geisinger plans to expand its individual and small group offerings into Bedford County, increasing choice for consumers as three insurers will now be offering plans.

Rate filings for 2024 health insurance plans were submitted to PID on May 17.

Next Steps: Public comment on rate requests and filings will be accepted through September 8, 2023. Proposed rate changes vary by plan and region and are subject to change as the department conducts its review process. Final approved rates will be made public in the fall.

Industry Trends

Policy / Market Trends

DC Court Rejects Air Ambulance Providers' Challenge to Certain *No Surprises Act* Regulations

The U.S. District Court for the District of Columbia issued [a decision](#) rejecting an effort by air ambulance providers to vacate certain regulations implementing the *No Surprises Act*. The lawsuit (*Association of Air Medical Services v. HHS*) was filed in late 2021 and challenged certain provisions of the agencies' July 2021 interim final rule (IFR) establishing the methodology for determining the qualifying payment amount (QPA) for air ambulance related IDR claims under the Act. AHIP filed an [amicus brief](#) supporting the government's effort to defend the IFR, which the Court approvingly cited in support of its decision.

Why this matters: Specifically, the decision found the agencies acted reasonably in 3 key areas related to how air ambulance rates are properly calculated or accounted for in plans' QPAs:

- First, the Court found the agencies properly excluded all air ambulance "single case agreements" from the QPA on the basis they both materially differ from in-network agreements and doing so "is in

line with Congress’s intent to address the market failure stemming from air ambulance providers’ ability to remain out-of-network and change high out-of-network rates.”

- The Court also found the agencies acted reasonably by deciding to treat both independent air ambulance providers and hospital-based air ambulance providers as the same “provider specialty” and when establishing the appropriate “geographic region” for calculating median air-ambulance rates.
- Finally, the court also upheld the agencies’ decision to base patient cost-sharing obligations for air ambulance services on the QPA, as opposed to an amount determined through open negotiation or the IDR process like air ambulance providers sought.

It merits noting lawsuits challenging some of the same IFR air ambulance provisions (as well as a variety of other QPA-related provisions for all types of providers) are still pending in federal district courts in Texas and Kentucky. The Texas case (*TMA III*) is fully briefed, argued, and pending a decision, while the Kentucky case remains stayed pending a decision in *TMA III*.

Updates on Medicaid Redeterminations

Below is a comprehensive summary of recent activity on Medicaid Redeterminations from CMS.

CMS Resources:

- First batch of Medicaid Redeterminations [data](#) reported under the Consolidated Appropriations Act, 2023.
- A [letter from Secretary Becerra](#) to states accompanied the data release, urging states to adopt strategies to help coverage retention, especially increasing *ex parte*
- [Letters from CMS](#) to states regarding their preliminary data on 3 sets of metrics, including requests to states to take action to address certain issues.
- An updated document outlining the 2023 state Medicaid and CHIP [renewal timelines and distribution plans](#), including whether states are prioritizing some or all renewals for likely ineligible individuals.
- A compliance [factsheet](#) describing CMS’s efforts to monitor state data and information from stakeholders to identify problems, to take action to ensure compliance, and a [summary](#) of state mitigation strategies for complying with Medicaid renewal requirements.
- A [webinar series](#) on reaching out to special populations running through the month of August.
- CMS Renewals Communications [Toolkit](#), with several recent updates.
- [gov](#) resources, including a [Back-to-School toolkit](#) and an outreach tool [library](#) with customizable materials.

Other sources:

- The Connecting to Coverage [newsroom](#) includes weekly news round-ups of national and state coverage on Medicaid unwinding, as well as many other Coalition member [resources](#) for stakeholders working on renewals.
 - KFF Medicaid Enrollment and Unwinding [Tracker](#).
 - Georgetown Center for Children and Families' [State Unwinding Renewal Data](#), including an interactive chart on *ex parte* and procedural disenrollment rates to date.
 - A National Association of Medicaid Directors (NAMD) [blog post](#) on how Medicaid programs are applying insights toward a successful unwinding, and a [summary of Medicaid Director survey data](#).
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CMS Releases Medicaid Demographic Data for First Time

Recently, the Centers for Medicare & Medicaid Services (CMS) released [a series of data briefs](#) on the demographic composition of Medicaid and CHIP, including analyses stratified by race, ethnicity, primary language, geography, and eligibility on the basis of disability. Key findings of the data include:

- **Race and ethnicity:** Medicaid and CHIP provided coverage for nearly 55 million people from racial and ethnic minority backgrounds in 2020.
 - **Residence in Rural Areas:** Medicaid and CHIP enrollees are slightly more likely to reside in rural areas than the total U.S. population.
 - **Primary Spoken Language:** Over 10% of Medicaid and CHIP enrollees have a primary language other than English, which is slightly lower than the overall U.S. population.
 - **Disability:** Around 10 million Medicaid enrollees (or 11% of the Medicaid population) qualified for benefits based on disability in 2020.
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HHS Report: 2023 ACA Enrollment Resulted in an All-Time Low in the Number of Uninsured

The Department of Health and Human Services (HHS) released a [new report](#) showing the national uninsured rate reached an all-time low of 7.7% in early 2023. Approximately 6.3 million people have now gained coverage since 2020. This is the first report on the uninsured rate since the Open Enrollment period that ended this past January.

Why this matters: This record number of uninsured in 2023 comes as health insurance providers expanded offerings, with [more than 200 companies](#) offering coverage through the marketplaces. Consumers have more choices with access to, on average, 6 to 7 Qualified Health Plan (QHP) issuers and many plans to choose from.

MA Plans' Quality Bonus Payments to Hit \$12.8B This Year

A KFF [analysis estimates](#) that Medicare Advantage plans will receive at least \$12.8 billion in bonus payments this year as part of the Affordable Care Act's quality bonus program, a jump from \$3 billion in

2015. The average annual bonus payments per MA enrollee rose from \$184 to \$417 between 2015 and 2023, and about 85% of MA beneficiaries are enrolled in plans that will receive bonus payments.

Interested in reviewing a copy of a bill(s)? Access the following web sites:

Delaware State Legislation: <http://legis.delaware.gov/>.

New York Legislation: <https://nyassembly.gov/leg/>

Pennsylvania Legislation: www.legis.state.pa.us.

West Virginia Legislation: <http://www.legis.state.wv.us/>

For copies of congressional bills, access the Thomas website – <http://thomas.loc.gov/>.

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